

**Members:**  
Rep. Mark Kruzan, Chair  
Rep. John Frenz  
Rep. Dale Sturtz  
Rep. Luther Lutz  
Rep. Richard Mangus  
Rep. Thomas Saunders  
Sen. James Merritt, V. Chair  
Sen. Allen Paul  
Sen. Becky Skillman  
Sen. William Alexa  
Sen. James Lewis  
Sen. Timothy Lanane



## **INTERIM STUDY COMMITTEE ON STATE GOVERNMENT ISSUES**

**LSA Staff:**  
John Rowings, Attorney for the Committee  
Anne Haley, Attorney for the Committee  
Susan Preble, Fiscal Analyst for the Committee

**Authority:** Legislative Council Resolution 2-1998

**Legislative Services Agency  
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### **MEETING MINUTES**

**Meeting Date:** September 22, 1998  
**Meeting Time:** 1:30 P.M.  
**Meeting Place:** State House, 200 W. Washington St.,  
House Chambers  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 4

**Members Present:** Rep. Mark Kruzan, Chairperson; Rep. John Frenz; Rep. Dale Sturtz; Rep. Luther Lutz; Sen. James Merritt, Vice-Chairperson; Sen. Becky Skillman; Sen. William Alexa; Sen. James Lewis; Sen. Timothy Lanane.

**Members Absent:** Rep. Richard Mangus; Rep. Thomas Saunders; Sen. Allen Paul.

Rep. Kruzan convened the meeting at 1:45 p.m.. Rep. Kruzan indicated that proposals for amending the public access laws must be submitted to a legislator for discussion at the next meeting on October 6, 1998.

Ms. Anne Mullin O'Connor gave the Committee a progress report on her tenure as Public Access Counselor.<sup>1</sup> She indicated that she has resolved 87% of the complaints. She discussed with the Committee the activities of the Governor's Task Force on Public Access. She indicated that Governor O'Bannon has asked the Task Force to prepare written recommendations about changes to the public access laws.

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<sup>1</sup>A written summary of Ms. O'Connor's testimony is on file at the Legislative Information Center, Room 230, State House, Indianapolis, Indiana. The telephone number of the Legislative Information Center is (317) 232-9856, and the mailing address is 200 West Washington St., Suite 301, Indianapolis, Indiana 46204-2789.

Ms. O'Connor reported the types of complaints received at the first meeting of the Task Force, including placing notices on the Internet, upgrading technology, creating consistency between county offices performing the same function, establishing a fair price for information and copies, and educating public officials. Ms. O'Connor stated that it has been her experience that most public officials want to comply with the public access laws, but do not know how to do so.

Sen. Skillman indicated that she would coordinate the testimony concerning compliance issues. Sen. Skillman indicated that the Legislative Services Agency had prepared a chart of the public records compliance provisions of all states.<sup>2</sup>

Mr. Steve Key, Hoosier State Press Association (HSPA), discussed compliance issues and presented the HSPA's proposal for amending the public access laws.<sup>3</sup> Mr. Key also made the following points: (1) A commission needs to be established where the public can appeal a denial for a request for public records if the Public Access Counselor is unable to resolve the problem. (2) A fine or penalty would not be assessed against a public official until a ruling was issued by the commission and the public official did not comply with the ruling. (3) Voluntary education of public officials should be offered, but mandatory education should not be required. (4) The public records statute should be amended to provide that records must be provided within a reasonable time.

Mrs. Marian M. Percy, Harrison County, Indiana, related her experience of suing the county council for violation of the open door law. Mrs. Percy presented the Committee with possible solutions to the problems with public access.<sup>4</sup>

Ms. Julia Vaughn, Common Cause/Indiana, stated that she concurs with the position of the HSPA and FOIndiana on this issue. She made these additional points: (1) Public officials who knowingly violate the law should receive fines that they are liable for personally. (2) If a public access commission is established it should have the power to void any action taken in a meeting that violates the open door law. (3) The General Assembly's standing committee meetings should be recorded and the meeting minutes should be available over the Internet.

Mr. Clarke Kahlo, FOIndiana, Inc., (FOIndiana) described the history and affiliate organizations of FOIndiana. Mr. Kahlo presented the recommendations of FOIndiana for amending the public access laws.<sup>5</sup> Mr. Kahlo added that in some states penalties go to a dedicated fund and are used for education. He stated that agencies need to post a list of documents that may be disclosed. He stated that the General Assembly also needs to comply with the public access laws. He believes that some disclosure exceptions should be eliminated and others should be clarified.

Ms. Charlotte Hammond, Akron, Indiana, related her experience in trying to get records from the Akron Advisory Plan Commission. Ms. Hammond distributed to the Committee a letter from her attorney containing recommendations for amending the

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<sup>2</sup>A copy of the chart is on file at the Legislative Information Center (see footnote 1).

<sup>3</sup> Mr. Key's testimony is on file at the Legislative Information Center (see footnote 1).

<sup>4</sup>Mrs. Percy's testimony is on file at the Legislative Information Center (see footnote 1).

<sup>5</sup> A copy of a letter containing Mr. Kahlo's comments is on file at the Legislative Information Center (see footnote 1).

public access laws.<sup>6</sup>

Mr. Michael Gradison, discussed with the Committee how he was denied access to a meeting of the Indianapolis police department citizen complaint board. He indicated that the Indiana Civil Liberties Union has prepared a complaint on his behalf.<sup>7</sup>

Rep. Frenz led the Committee discussion on mechanics issues. Rep. Frenz indicated that the Legislative Services Agency had prepared a compilation of comments regarding how the public access laws should be amended.<sup>8</sup> He indicated that he was able to divide these comments into three issues: (1) determine the cost of public records; (2) state in the public records statute the time allowed a public agency for producing a records request; (3) foster compliance with the law. He stated that the public access law needs to be updated because of the dramatic changes in technology since its inception. Rep. Frenz suggested that the position of Public Access Counselor should be made statutory. In addition, he believes that all public records that are referenced throughout the Indiana Code should be listed in one section of the public records law.

Mr. Steve Key, HSPA, addressed the Committee concerning the mechanics issue.<sup>9</sup> Mr. Key and the Committee discussed various factual situations involving informal meetings of public officials and whether these situations would constitute a violation of the open door law.

Mr. Dave Bane, Stallard and Schuh, Indiana Land Title Association, submitted written testimony concerning mechanics issues.<sup>10</sup>

Mr. Scott A. Robinett, Indiana Association of Professional Investigators, related his difficulties in trying to obtain police department records in the course of his business. Mr. Robinett explained how in response to his request for a police report, he received a one page "sanitized" media record instead of a complete record.<sup>11</sup> He added that he thinks it is unfair that the taxpayers have to pay if he prevails in court on a public access lawsuit.

Mr. E.W. "Pete" Drum, Friends of White River, related his experience in trying to

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<sup>6</sup> A copy of the letter is on file at the Legislative Information Center (see footnote 1).

<sup>7</sup> A copy of the complaint is on file at the Legislative Information Center (see footnote 1).

<sup>8</sup> A copy of the list is on file at the Legislative Information Center (see footnote 1).

<sup>9</sup> A copy of Mr. Key's testimony is on file at the Legislative Information Center (see footnote 1).

<sup>10</sup>Mr. Bane's testimony is on file at the Legislative Information Center (see footnote 1).

<sup>11</sup>A copy of both reports is on file at the Legislative Information Center (see footnote 1).

obtain information concerning water quality data for Marion County.<sup>12</sup>

Mr. Fred L. Jones, Indiana Land Title Association and Old Republic National Title Insurance Company, related the problems of title companies in accessing records and stated that records should be available in bulk form. He stated that some public agencies attach a high cost to granting access to bulk records, citing as an example the remote access service offered by the Marion county Recorder's Office.<sup>13</sup> He urged the Committee to look at whether public agencies can copyright public records and make a high profit from public records.

Representatives of Citizens in Action, East Chicago, Indiana addressed the meeting. Ms. Colleen Aguirre, related to the Committee her frustration in trying to obtain information concerning the East Chicago schools. Ms. Lorraine Stasek described her difficulties trying to gain access to public meetings and obtain public records. Mr. Anthony Copeland described the dates of his repeated requests for budgetary information and public contracts. He indicated that he has filed a lawsuit to obtain some records. He stated that enforcement of the law needs to be tougher so that officials are personally responsible for penalties.<sup>14</sup>

Mr. John Althott, Evansville Police Department, indicated that his department cooperates in providing access to the media to police records.<sup>15</sup> Mr. Althott stated that access promotes a good relationship between the government and the people. He stated that public officials should be made responsible.

Ms. Rita Kopala addressed the Committee concerning her frustration in trying to obtain records concerning drainage board assessments in St. Joseph County. Ms. Kopala described the problems she encountered with police when she displayed signs outside a meeting in St. Joseph County.

Rep. Kruzan indicated that proposals would be discussed at the next meeting on October 6. He indicated that the Committee would not vote on the proposals at that meeting. Rep. Kruzan adjourned the meeting at 4:15 p.m..

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<sup>12</sup> A copy of a chronology of Mr. Drum's attempts to receive this information, a newspaper article on his efforts, and the water quality information are on file at the Legislative Information Center (see footnote 1).

<sup>13</sup>A copy of a brochure about the Marion County Recorder's Office remote access service is on file at the Legislative Information Service.

<sup>14</sup>Materials compiled by Citizens in Action are on file at the Legislative Information Center. (see footnote 1).

<sup>15</sup>A copy of a sample media report is on file at the Legislative Information Center (see footnote 1).